

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 EB-07 FEA-01 ERDA-05 AID-05 CEA-01

CIAE-00 CIEP-01 COME-00 DODE-00 FPC-01 H-02 INR-07

INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04 USIA-06

SAM-01 OES-03 SP-02 SS-15 STR-04 TRSE-00 JUSE-00

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PASS DEPT. OF JUSTICE, ANTI-TRUST DIVISION FOR JOEL DAVIDOW
AND THE FEDERAL TRADE COMMISSION

E.O. 11652: N/A

TAGS: ENRG, ETRD, EEC

SUBJECT: EC COMMISSION REPORT ON BEHAVIOR OF OIL COMPANIES DURING
THE OIL CRISIS

REFS: A. EC-A-350, NOVEMBER 21, 1974
B. LONDON 14568, NOVEMBER 8, 1974
C. EC-A-5987, AUGUST 7, 1974

1. SUMMARY: THE EC COMMISSION HAS CONCLUDED FROM A
LENGTHY AND DETAILED STUDY OF THE COMPORTMENT OF THE OIL
INDUSTRY DURING THE OIL CRISIS OF OCTOBER 1973-MARCH 1974
THAT THE INTERNATIONAL OIL COMPANIES WERE NOT IN VIOLATION
OF ROME TREATY ARTICLES 85 (AGREEMENTS IN RESTRAINTS OF
TRADE) OR 86 (ABUSE OF DOMINANT POSITION). BEFORE COMPLETELY
DISMISSION THE ISSUE, HOWEVER, THE COMMISSION HAS A FEW
SPECIFIC AREAS WHICH IT WISHES TO STUDY A BIT FURTHER.

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ALTHOUGH THE COMMISSION GIVES HIGH MARKS TO THE OIL
COMPANIES, FOR THEIR GENERAL EFFICIENCY AND PARTICULARLY

FOR THEIR ABILITY TO SUPPLY THE NETHERLANDS AND DENMARK DURING THE ARAB OIL EMBARGO, IT BELIEVES THAT EUROPE'S GREAT DEPENDENCE ON THE INTERNATIONAL OIL COMPANIES REQUIRES A COUNTERVAILING GOVERNMENT POWER. THE PROPOSED COMMON EC ENERGY POLICY COULD PROVIDE THE NECESSARY COUNTER-WEIGHT. THE COMMISSION'S REPORT SHOULD BE OF CONSIDERABLE INTEREST TO US OFFICIALS DEALING WITH OIL ISSUES. END SUMMARY.

2. AT A PRESS CONFERENCE ON DECEMBER 18, EC COMMISSIONER BORSCHETTE DISCUSSED THE EC COMMISSION'S REPORT ON THE BEHAVIOR OF THE OIL COMPANIES IN THE EC DURING THE OIL CRISIS OF OCTOBER 1973 TO MARCH 1974. (COPIES OF THE REPORT HAVE BEEN POUCHED TO EUR/RPE ATT. BRESLER AND EB/ORF/FSE ATT. BOSWORTH). IN RESPONSE TO PUBLIC AND EUROPEAN PARLIAMENT CRITICISM AND SPECIFIC COMPLAINTS BY INDEPENDENT OIL COMPANIES AGAINST THE MAJORS DURING THE CRISIS, THE COMMISSION, IN DECEMBER 1973 PROMISED THE PARLIAMENT THAT IT WOULD INVESTIGATE THE OIL COMPANIES TO DETERMINE IF THERE WERE VIOLATIONS OF ROME TREATY ARTICLES 85 (RESTRICTIVE AGREEMENTS) AND 86 (ABUSE OF DOMINANT POSITION) (SEE REFERENCES). THE REPORT, WHICH WAS PREPARED AS A RESULT OF THE INVESTIGATION, DESCRIBES IN CONSIDERABLE DETAIL THE STRUCTURE OF THE OIL INDUSTRY IN EUROPE, THE "OIL CRISIS" ITSELF, THE RELATIONSHIPS BETWEEN THE OIL COMPANIES AND THE NINE MEMBER STATES, THE EFFECTS OF THE CRISIS ON QUANTITIES AND PRICES, INCLUDING COMPANY METHODS FOR DETERMINING PRICES, AND THE ROLE OF INDEPENDENTS. IT ALSO DRAWS CONCLUSIONS ON THE ANTI-TRUST AND PETROLEUM POLICY ISSUES.

3. AT HIS PRESS CONFERENCE, BORSCHETTE DESCRIBES THE MAJOR CONCLUSIONS OF THE STUDY. HE STATED THAT ON THE BASIS OF THE REPORT'S FINDINGS, THE COMMISSION HAS DECIDED NOT RPT NOT TO OPEN ANY NEW PROCEDURES AGAINST OIL COMPANIES BECAUSE OF THEIR CONDUCT DURING THE CRISIS. THE COMMISSION DID NOT FIND VIOLATIONS OF ARTICLE 85 OR 86 REGARDING EITHER CRUDE OR PETROLEUM PRODUCTS. BORSCHETTE POINTED OUT, HOWEVER, THAT DURING THE CRISIS LIMITED OFFICIAL USE
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THERE WERE TWO SEPARATE EUROPEAN MARKETS, ONE IN THE EIGHT COUNTRIES WITH A SYSTEM OF CONTROLS AND ANOTHER IN GERMANY WHERE THERE WAS A FREE MARKET. HE NOTED THAT SOME INDEPENDENT DEALER HAD FOLDED, BUT NOT AN ABNORMAL NUMBER GIVEN THE LARGE NUMBER OF INDEPENDENT OPERATORS (60,000). BORSCHETTE PRAISED THE OIL COMPANIES FOR SUPPLYING THE NETHERLANDS AND DENMARK DURING THE BOYCOTT AND SAID THAT CONSULTATIONS BETWEEN THE COMPANIES AND GOVERNMENTS DURING THE CRISIS WERE GOOD.

4. BORSCHETTE DREW CERTAIN "POLITICAL" CONCLUSIONS FROM THE REPORT. HE NOTED THE EXTREME DEGREE OF DEPENDENCE OF THE EC ECONOMIES ON THE INTERNATIONAL OIL COMPANIES AND THE DANGER OF THE GROWING POWER OF THE OIL COMPANIES IN OTHER ENERGY SECTORS (NATURAL GAS, NUCLEAR ENERGY, PETRO-CHEMICALS). HE STATED THAT IN FACE OF THE POWER OF THE OIL COMPANIES AND EUROPE'S DEPENDENCE ON THEM, THERE MUST BE A GOVERNMENT AND PARTICULARLY AN EC-WIDE COUNTERWEIGHT, WHICH WOULD BE BROUGHT ABOUT WITH THE ADOPTION OF AN EC ENERGY POLICY.

5. WHILE IN GENERAL THE COMMISSION FINDS THE CONDUCT OF THE OIL COMPANIES SATISFACTORY DURING THE CRISIS, THE COMMISSION IS CONTINUING TO LOOK INTO ONE OR TWO SPECIFIC ASPECTS. IT WILL COMPLETE ITS INVESTIGATION OF THE CASE IT HAS BEFORE IT REGARDING ALLEGED CUT-OFFS OF SUPPLIES TO A DUTCH INDEPENDENT (SEE REFTEL A). IT WILL ALSO INVESTIGATE THE MARKET FOR JET FUEL WITH THE AIRLINES, THE MARKET FOR NAPHTHA WITH THE CHEMICAL INDUSTRY, THE USE MADE BY THE OIL COMPANIES OF REFERENCES TO PLATT'S OILGRAM QUOTATIONS, AND THE ELECTRIC POWER COMPANIES' OIL SUPPLY CONTRACTS. GREENWALD

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